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EXAMINER

PICO, ERIC E

ART UNIT

PAPER NUMBER

3654

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,459

Applicant(s)

AUGUGLIARO, DARIO

Examiner

Eric Pico

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-11, 14, 15, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 7, 12, 13 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim(s) 1, 4, 9, and 10 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakai et al. U.S. Patent No. 5105109 in view of Yuichiro et al. JP Publication No. 2000-255941.

3. **Regarding claim 1**, Nakai et al. discloses an elevator counterweight 3 for connection to an elevator car 4 by flexible support means, referred to as ropes 6, and movable along counterweight guide rails 8 comprising a counterweight frame, referred to as casing frame 17, adapted to be connected to the flexible support means 6 and moved along the counterweight guide rails 8, a plurality of weight elements, referred to as counterweights 2, fixed in the frame 17, upper and lower guide shoes, not numbered but shown in Figure 1, attached to the frame 17 and adapted to engage the counterweight guide rails 8; and the frame 17 including four vertical beams, not numbered but shown in Figures 1 and 7, spaced over a width of the frame 17 and three horizontal crossbars, not numbered but shown in Figures 1 and 7, attached to the vertical beams, the beams and the crossbars forming two grid fields adapted to receive the weight elements 2 with the weight elements 2 being fixed in the grid fields.

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4. Nakai et al. is silent concerning the beams and said crossbars forming at least four grid fields adapted to receive the weight elements.

5. Yuichiro et al. teaches a balance weight divided in the vertical direction by a crossbar, referred to as partition plate 19, creating a first subweight 22 and a second subweight 20.

6. It would have been obvious to one of ordinary skill in the art at the time of the invention to divide each of the two grid fields disclosed by Nakai et al. by a partition plate, a first subweight, and a second subweight as taught by Yuichiro et al. thus creating four grid fields adapted to receive the weight elements to provide a means to adjust the weight of the counterweight to rescue passengers in a car stopping at the top of a hoist way in an elevator.

7. **Regarding claim 4**, Nakai et al. discloses the beams and the crossbars are arranged in a common plane, shown in Figures 1 and 7.

8. **Regarding claim 9**, Nakai et al. discloses the beams prevent horizontal movement of the weight elements 2 in the grids.

9. **Regarding claim 10**, Nakai et al. discloses the weight elements 2 are formed as rectangular blocks.

10. Claim(s) 2 and 3 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakai et al. U.S. Patent No. 5105109 in view of Yuichiro et al. JP Publication No. 2000-255941 as applied to claim 1 above, and further in view of Yoo et al. U.S. Patent No. 5080201.

11. **Regarding claim 2**, Nakai et al. discloses a first one of the crossbars terminates the frame 17 at a top, a second one of the crossbars terminates the frame 17 at a bottom and a third one of the crossbars is arranged between the first and second crossbars, each outermost one of the beams extending only from the first crossbar to the third crossbar so that a lower left-hand one of the grids and a lower right-hand one of the grids are open at a respective left-hand side and right-hand side, shown in Figures 1 and 7.

12. Nakai et al. is silent concerning the lower guide shoes being mounted in the lower left-hand grid and the lower right-hand grid.

13. Yoo et al. teaches lower guide shoes, referred to as guide roller sets 10, being mounted in a lower left-hand grid and a lower right-hand grid, shown in Figures 1 and 2.

14. It would have been obvious to one of ordinary skill in the art at the time of the invention to mount guide rollers disclosed by Nakai et al. in a lower left-hand grid and a lower right-hand grid as taught by Yoo et al. to facilitate airflow around the counterweight.

15. **Regarding claim 3**, Nakai et al. discloses a third crossbar fastened to the beams in a selected one of two vertically spaced positions to determine a height of the lower left-hand grid and the lower right-hand grid, shown in Figures 1 and 7.

16. Claim(s) 5 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakai et al. U.S. Patent No. 5105109 in view of Yuichiro et al. JP Publication No. 2000-255941 as applied to claim 1 above, and further in view of Gruber et al. U.S. Patent No. 6105798.

17. **Regarding claim 5**, Nakai et al. is silent concerning beams penetrate the crossbars and are connected with the crossbars at penetration locations.

18. Gruber et al. teaches beams 26, 28 penetrate the crossbars 30 and are connected with the crossbars at penetration locations 30.

19. It would have been obvious to one of the ordinary skill in the art at the time of the invention to make the beams taught by Nakanishi penetrate crossbars and connect with the crossbars at penetration locations taught by Gruber et al. to evenly distribute the load onto the crossbars and facilitate a secure connection between beams and crossbars.

20. Claim(s) 6, and 11 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakai et al. U.S. Patent No. 5105109 in view of Yuichiro et al. JP Publication No. 2000-255941 as applied to claim 1 above, and further in view of Gagnon et al. U.S. Patent No. 5086881.

21. **Regarding claim 6**, Nakai et al. is silent concerning beams formed with profile members having a U-shaped cross-section.

22. Gagnon et al. teaches beams formed with profile members having a U-shaped cross-section.

23. It would have been obvious to one of the ordinary skill in the art at the time of the invention to manufacture the beams disclosed by Nakanishi with a U-shaped cross-section taught by Gagnon et al. to securely fix weight elements between the beams.

24. **Regarding claim 11**, Nakai et al. is silent concerning the beams are spaced to define a first width for a first portion of said grid fields and a second width different from the first width for at least a second portion of the grid fields.

25. Gagnon et al. teaches beams spaced to define a first width for a first portion of grid fields and a second width different from the first width for at least a second portion of the grid fields shown in Figures 1, 2, and 3.

26. It would have been obvious to one of the ordinary skill in the art at the time of the invention to have beams disclosed by Nakanishi spaced to define a first and second width of a grid field taught by Gagnon et al. to provide a diverse size of grids to accommodate various sized components.

27. Claim(s) 8 and 14 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakai et al. U.S. Patent No. 5105109 in view of Yuichiro et al. JP Publication No. 2000-255941 as applied to claim 1 above, and further in view of Nakanishi U.S. Patent No. 5300737.

28. **Regarding claim 8**, Nakai et al. discloses safety brake devices.

29. Nakai et al. is silent concerning the safety brake devices attached to a lower surface of an intermediate one of the crossbars.

30. Nakanishi teaches safety brake devices 29, 30 are attached to a lower surface of an intermediate one of a crossbar, referred to as lower plate member 14b, through support shaft 25.

31. It would have been obvious to one of ordinary skill in the art at the time of the invention to attach the brake devices disclosed by Nakai et al. to a lower surface of an

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intermediate one of a crossbar through support shaft as taught by Nakanishi to facilitate the connection between the counterweight and the break devices.

32. **Regarding claim 14**, Nakai et al. is silent concerning an uppermost and/or lowermost one of the crossbars has a center horizontal welding plate for fastening support means or weight compensating means.

33. Nakanishi teaches an uppermost crossbar 14a having a center horizontal welding plate 19 for fastening support means 4a, 4b, 4c.

34. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a center horizontal welding plate as taught by Nakanishi to an uppermost crossbar for fastening support means disclosed by Nakai et al. to facilitate the connection between the crossbar and the support means.

35. Claim(s) 15 and 18 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakai et al. U.S. Patent No. 5105109 in view of Yoo et al. U.S. Patent No. 5080201.

36. **Regarding claim 15**, Nakai et al. discloses an elevator counterweight 3 for use in an elevator installation comprising a counterweight frame 17 including a first plurality of vertical beams spaced over a width of the frame 17 and a second plurality of horizontal crossbars attached to the vertical beams, the beams and the crossbars forming a plurality of grid fields including a lower right-hand grid open at a right side thereof and a lower left-hand grid open at a left side thereof, weight elements 2 fixed in one of the grids other than the lower right-hand grid and the lower left-hand grid, and a

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pair of lower guide shoes attached to the frame 17 and adapted to engage the counterweight guide rails 8,

37. Nakai et al. is silent concerning one of the guide shoes being positioned in the lower right-hand grid and another of the guide shoes being positioned in the lower left-hand grid.

38. Yoo et al. teaches guides shoes 10 being positioned in a lower right-hand grid and another of the guide shoes being positioned in a lower left-hand grid.

39. It would have been obvious to one of ordinary skill in the art at the time of the invention to mount guide rollers disclosed by Nakai et al. in a lower left-hand grid and a lower right-hand grid as taught by Yoo et al. to facilitate airflow around the counterweight.

40. **Regarding claim 18**, Nakai et al. discloses the beams and the crossbars are arranged in a common plane.

41. Claim(s) 17 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakai et al. U.S. Patent No. 5105109 in view of Yoo et al. U.S. Patent No. 5080201 as applied to claim 15 above, and further in view of Nakanishi U.S. Patent No. 5300737.

42. **Regarding claim 17**, Nakai et al. discloses safety brake devices are positioned in the lower right-hand grid and said lower left-hand grid

43. Nakai et al. is silent concerning the safety brake devices attached to a lower surface of an intermediate one of the crossbars.

44. Nakanishi teaches safety brake devices 29, 30 are positioned in a lower right-hand grid a said lower left-hand grid and are attached to a lower surface of an intermediate one of the crossbars 14b through support shaft 25.

45. It would have been obvious to one of ordinary skill in the art at the time of the invention to attach the safety brake devices disclosed by Nakai et al. to a lower surface of an intermediate one of the crossbars as taught by Nakanishi to facilitate the connection between the counterweight and the break devices.

Allowable Subject Matter

46. Claims 7, 12, 13, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

47. Claims 19 and 20 are allowed.

Response to Arguments

48. In response to applicant's argument that Gruber et al. U.S. Patent No. 6105798 is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Gruber et al. U.S. Patent No. 6105798 is in the field of creating a frame comprised of beams and crossbars.

49. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

50. Applicant's arguments, see Page 10, filed 12/19/2005, with respect to the rejection(s) of claim(s) 2, 7, and 15 under Nakanishi U.S. Patent No. 5300737 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made **regarding claim 2** in view of Nakai et al. U.S. Patent No. 5105109 in view of Yuichiro et al. JP Publication No. 2000-255941 as applied to claim 1 above, and further in view of Yoo et al. U.S. Patent No. 5080201 and **regarding claim 15** in view of Nakai et al. U.S. Patent No. 5105109 in view of Yoo et al. U.S. Patent No. 5080201.

51. Applicant's arguments filed 12/19/2005, with respect to the rejection(s) of claim(s) 8 have been fully considered but they are not persuasive. Nakanishi teaches safety brake devices 29, 30 are attached to a lower surface of an intermediate one of a crossbar, referred to as lower plate member 14b, through support shaft 25.

52. Applicant's argument Gagnon et al. does not provide any of the claimed elements missing from the Nakanishi patent. Gagnon et al. is provided to teach beams formed with profile members having a U-shaped cross-section and beams spaced to define a first width for a first portion of grid fields and a second width different from the first width for at least a second portion of the grid fields.

Conclusion

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53. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nakai et al. U.S. Patent No. 5033587, Nakai et al. U.S. Patent No. 5033588, Nakai et al. U.S. Patent No. 5036955, Nakai et al. U.S. Patent No. 5074384, Wittur et al. U.S. Patent No. 5788017, Ishibashi JP Publication No. 5-162985, Morioka JP Publication No. 5-201657.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Pico whose telephone number is 571-272-5589.

The examiner can normally be reached on 6:30AM - 3:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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